

United States District Court

NORTHERN

FILED
DISTRICT OF

CALIFORNIA

E-FILED

2007 AUG 30 A 11:06

UNITED STATES OF AMERICA

V.

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.D.

CRIMINAL COMPLAINT

Osiel VERGARA-Perez
(Name and Address of Defendant)

CASE NUMBER: 07-70513-HRL

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, August 14, 2007, in Santa Clara County in the Northern District of California defendant(s) was, (Track Statutory Language of Offense)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326
I further state that I am a(n) Deportation Officer and that this complaint is based on the following
Official Title
facts:

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty (20) years imprisonment, \$100.00 special assessment fee, and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM: _____

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Signature of Complainant

Sworn to before me and subscribed in my presence,

8/30/07
Date

at

San Jose, California
City and State

Howard R. Lloyd
United States Magistrate Judge
Name & Title of Judicial Officer

Signature of Judicial Officer

RE: VERGARA-Perez, Osiel A91 136 338

I am a Deportation Officer of the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) and have been employed since July 7, 1997. I am currently assigned to the Criminal Alien Program (CAP) Unit of the San Jose Sub-Office. In such capacity, I have reviewed the official file relating to the above named individual, which attests to the following:

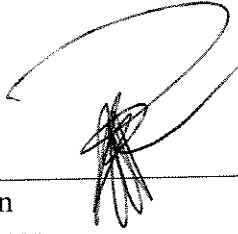
- (1) Mr. VERGARA-Perez is a 37-year-old male who has used twenty-one (21) aliases and six (6) dates of birth in the past.
- (2) Mr. VERGARA-Perez has been assigned one (1) Alien Registration number of A91 136 3380, FBI number of 84162KA2, California Criminal Information Index number of A22110962, and a Santa Clara County Personal File Number of DQP159.
- (3) Mr. VERGARA-Perez is a native of Mexico and a citizen of Mexico since birth. A check through official records shows that he was arrested and deported on two (2) occasions from the United States:

<u>DATE</u>	<u>PLACE OF DEPORTATION</u>
August 4, 1998	El Paso, TX
May 17, 2000	El Paso, TX

- (4) Mr. VERGARA-Perez last entered the United States at or near Nogales, AZ on or after May 17, 2000, by crossing the international border without inspection subsequent to deportation.
- (5) Mr. VERGARA-Perez on a date unknown, but no later than August 14, 2007, in Santa Clara County in the Northern District of California, was found to be unlawfully present in the United States, after prior arrests and deportations, without the permission of the Attorney General or the Secretary of Homeland Security, in violation of Title 8, United States Code, Section 1326. On August 17, 2007, Mr. VERGARA-Perez was interviewed by Immigration Enforcement Agent (IEA) Alejandro Sierra at the Santa Clara Co Jail Elmwood, Milpitas, CA, and during that interview, Mr. VERGARA-Perez was advised of his **Miranda** rights in Spanish. Mr. VERGARA-Perez waived his **Miranda** rights and provided a written sworn statement attesting to his alienage, prior deportation, and failure to obtain permission from the Attorney General or the Secretary of Homeland Security to re-enter the United States.
- (6) Mr. VERGARA-Perez was, on July 8, 1998, convicted in the District Court, City and County of Denver, State of Colorado, for the offense of POSSESSION AND DISTRIBUTION OF HEROIN, a felony, in violation of c.r.s. 18-18-405(1)(a) and (2)(a)(I), and was sentenced to probation.

RE: VERGARA-Perez, Osiel A91 136 338

- (7) Mr. VERGARA-Perez was, on April 21, 1999, convicted in the U.S. District Court, District of New Mexico, for the offense of RE-ENTRY OF DEPORTED ALIEN, a felony, in violation of 8 U.S.C. Section 1326(a)(1) & (2), and was sentenced to twenty-four (24) months.
- (8) Mr. VERGARA-Perez was, on January 18, 2002, convicted in the Superior Court of California, in and for the County of Santa Clara, for the offense of PETTY THEFT, a misdemeanor, in violation of Section 484/488 of the California Penal Code, and was sentenced to ten (10) days in jail.
- (9) Mr. VERGARA-Perez was, on February 1, 2002, convicted in the Superior Court of California, in and for the County of Santa Clara, for the offense of THREATEN CRIME WITH INTENT TO TERRORIZE, a misdemeanor, in violation of Section 422 of the California Penal Code, and was sentenced to fifteen (15) days in jail.
- (10) Mr. VERGARA-Perez was, on February 18, 2003, convicted in the Superior Court of California, in and for the County of Santa Clara, for the offense of PETTY THEFT, a misdemeanor, in violation of Section 484/488 of the California Penal Code, and was sentenced to ten (10) days in jail.
- (11) On the basis of the above information, there is probable cause to believe that Mr. VERGARA-Perez illegally re-entered the United States, in violation of Title 8, United States Code, Section 1326.



Trong Q. Nguyen
Deportation Officer
Immigration and Customs Enforcement

Subscribed and sworn to before me this 30 day of August, 2007



HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE